SPECIAL ORDER NO. 43

August 24, 2009

SUBJECT: IMPLEMENTATION OF MARSY'S LAW; INVESTIGATIVE REPORT,

FORM 03.01.00 - REVISED; AND ARREST REPORT, FORM 05.02.00

- REVISED

EFFECTIVE: IMMEDIATELY

On November 4, 2008, California voters passed PURPOSE: Proposition 9, which is also known as Marsy's Law -The Victim's Bill of Rights Act of 2008. Marsy's Law mandates that victims of any criminal act be notified of their Victim's Bill of Rights and provided a Marsy's Rights Card. California Penal Code Section 679.026, sub-division (c)(1) references that this must be completed during the "initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys." The Los Angeles Office of the City Attorney has reviewed the new law and recommended the following procedure for ensuring compliance. This Order establishes the Department's procedures for complying with Marsy's Law. The Investigative Report (IR), Form 03.01.00; and the Arrest Report, Form 05.02.00, have been revised to reflect the new face sheets containing the new Marsy's Rights Card checkboxes.

PROCEDURE:

I. OFFICER'S RESPONSIBILITIES.

A. Officers completing any crime report (e.g., IR; Stolen Vehicle Report, CHP Form 180; etc.) or combined crime/arrest report (e.g., Arrest Report) shall provide the victim(s) a Marsy's Rights Card.

Note: If officers complete the report telephonically, they **shall** mail, fax, or e-mail as an attachment, a Marsy's Rights Card to the victim.

B. Officers shall document whether a Marsy's Rights Card was provided to the victim(s) at the time of the report, or whether it was mailed, faxed, or e-mailed to the victim. The information shall be documented by either checking the appropriate box on the face sheet of the IR or Arrest Report, or documenting it in the "Additional" heading of any crime report.

- II. WATCH COMMANDER'S RESPONSIBILITY. When reviewing IRs, Arrest Reports, or any crime reports, watch commanders shall ensure that the officer(s) document whether a Marsy's Rights Card was provided to the victim(s) and that they check the appropriate box on the IR or Arrest Report face sheet, or in the "Additional" heading of the IR, Arrest Report, or any crime report. If a Marsy's Rights Card was not provided to the victim(s), the watch commander shall ensure one is provided, mailed, e-mailed or faxed and check the appropriate box on the face sheet of the IR or Arrest Report, or document it in the "Additional" heading of any crime report.
- III. AREA AND SPECIALIZED DETECTIVE'S RESPONSIBILITY. Area and specialized detectives shall verify that if a Marsy's Rights Card was not provided to the victim(s) during the initial contact, one is provided to them during the follow-up investigation and documented on the Follow-Up Investigation Report, Form 03.14.00.
- IV. COMMANDING OFFICER'S RESPONSIBILITY. Commanding officers shall ensure that patrol, detective, or administrative personnel provide Marsy's Rights Cards to all crime victims.
- V. INVESTIGATIVE REPORT, FORM 03.01.00 REVISED. The Investigative Report, Form 03.01.00, has been revised to reflect a checkbox indicating "Mandatory Marsy's Rights Card Provided to the Victim" on its face sheet. When a victim of any type of crime has been provided a Marsy's Rights Card, the reporting officer, supervisor, or detective shall check this face sheet box or document it in the "Additional" heading of the IR.

The remainder of this form's use, completion, and distribution remain unchanged.

VI. ARREST REPORT, FORM 05.02.00 - REVISED. The Arrest Report, Form 05.02.00, has been revised to reflect a checkbox indicating "Mandatory Marsy's Rights Card Provided to the Victim" on its face sheet. When a victim of any type of crime has been provided a Marsy's Rights Card, the reporting officer, supervisor, or detective shall check this face sheet box or document it in the "Additional" heading of the Arrest Report.

The remainder of this form's use, completion, and distribution remain unchanged.

FORMS AVAILABILITY: The Marsy's Rights Card, in both English and Spanish, is available on the Department's LAPD Forms and at Supply Section, Fiscal Operations Division. The revised Investigative Report (IR) and the Arrest Report with the new Marsy's Rights Card checkboxes on the face sheets are available on the Department's LAPD Forms. Old versions of the IR and Arrest Report that do not contain the Marsy's Rights Card face sheet checkboxes may be used to document that a Marsy's Rights Card was provided to the victim(s) in the "Additional" heading of either report. Copies of the Marsy's Rights Card, revised IR and Arrest Report forms are attached for duplication and immediate use.

AMENDMENTS: This Order adds Sections 4/203.34 and 5/03.01.00 K; and amends Sections 5/03.01.00 and 5/05.02.00 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Internal Audits and Inspections Division, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

WILLIAM J BRATTON

Chief of Police

Attachments

DISTRIBUTION "D"

ACKNOWLEDGEMENT OF RECEIPT

I have received a copy of Special Order No. 43, titled "Implementation of Marsy's Law," dated August 24, 2009. I acknowledge that I have read and understand the following requirements:

- All crime victims shall be given a Marsy's Rights Card.
- If the crime report is taken telephonically, the officer shall mail, fax, or e-mail a Marsy's Rights Card to the victim.
- Officers shall document that a Marsy's Rights Card was provided to the victim by either checking the appropriate box on the face sheet of the Investigative Report (IR) or Arrest Report, or documenting it under the "Additional" heading of any crime report (e.g., IR, Arrest Report, Stolen Vehicle Report, etc.).

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FRONT



Edmund G. Brown Jr. Attorney General State of California



Victims' Bill of Rights Marsy's Law

The California Constitution, Article 1, Section 28, confers certain rights to victims of crime as they are defined in the law. Those rights include:

1. Fairness and Respect

To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

2. Protection from the Defendant

To be reasonably protected from the defendant and persons acting on behalf of the defendant.

3. Victim Safety Considerations in Setting Bail and Release Conditions

To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.

- 4. The Prevention of the Disclosure of Confidential Information To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
- 5. Refusal to be interviewed by the Defense

To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

6. Conference with the Prosecution and Notice of Pretrial Disposition

To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

7. Notice of and Presence at Public Proceedings

To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

8. Appearance at Court Proceedings and Expression of Views To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

BACK

- Speedy Trial and Prompt Conclusion of the Case
 To a speedy trial and a prompt and final conclusion of the case and
 any related post-judgment proceedings.
- 10. Provision of Information to the Probation Department To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

11. Receipt of Pre-Sentence Report

To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law

12. Information About Conviction, Sentence, Incarceration, Release, and Escape

To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

13. Restitution

- A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
- B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
- C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

14. The Prompt Return of Property

To the prompt return of property when no longer needed as evidence

15. Notice of Parole Procedures and Release on Parole

To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

16. Safety of Victim and Public are Factors in Parole Release
To have the safety of the victim, the victim's family, and the general
public considered before any parole or other post-judgment
release decision is made.

17. Information About These 16 Rights

To be informed of the rights enumerated in paragraphs (1) through (16).

For more information on Marsy's Law, visit the Attorney General's website at: www.ag.ca.gov/victimservices

To obtain information on the Victim Witness Assistance Center nearest to you contact:

Attorney General's Victim Services Unit 1-877-433-9069

FRENTE



Edmund G. Brown Jr. Oficina del Procurador General de California



Derechos Civiles de Victimas Ley de Marsy

La Constitución de California, Articulo 1, Sección 28, otorga ciertos derechos a victimas de crimen, tal como lo define la ley. Los derechos incluven:

1. Justicia y respeto

De ser tratado con justicia y respeto en su intimidad y dignidad y de ser libre de intimidación, acoso y maltrato durante el proceso completo de justicia penal o del proceso de justicia penal a menores.

2. Proteccion contra el acusado

De ser razónablemente protegido contra el acusado y de personas actuando en nombre del acusado.

- 3. Consideración a la seguridad (bien estar) de la victima cuando afijando la fianza y las condiciones de libertad condicional. De tomar en consideración la seguridad (bien estar) de la victima y de su familia cuando afijando fianza y regalas asociadas a libertad condicional para el acusado.
- 4. La prevención de divulgación de informacion confidencial De prevenir la revelación de información o registros confidenciales al acusado, su abogado, o cualquier otra persona actuando en nombre del acusado, que podrían ser empleados para localizar o acosar la victima o su familia o revelación de comunicativos confidenciales efectúados en el transcurso de tratamientos médicos o tratamientos psicológicos, o los cuales se consideren privilegiados y confidenciales ante la ley.
- 5. Denegación de ser entrevistado por el defensor De negar ser entrevistado, declaración bajo jurada, o por petición legal del acusado con su abogado o cualquier otra persona actuando en nombre del acusado y de afijar condiciones razonables sobre la manera y forma de realización de cualquier entrevista con el consentimiento de la victima.
- 6. Notificación de disposición a juicio y conferencia con el fiscal Ante petición de la victima, de ser notificado razónablemente de y de consultar razónablemente con la fiscalia, sobre cuestiónes de arresto del acusado, si es que son conocidos por el fiscal, los cargos, la determinación sobre la extraditara del acusado y ante peticióne de la victima, de ser notificado de e informado de antemano sobre resoluciones y disposición del caso, anteriores al juicio.
- 7. Notificación de y citación a procedimientos públicos De ser notificado razónablemente de todos los procedimientos públicos, inclúyendo procedimientos de delinquencia, ante petición de la victima a los cuales el acusado y el fiscal son autorizado a estar presente y de todos los procedimientos ante-convicción y libertad condicional y de estar presente a todos tales procedimientos.
- 8. Presencia al tribunal y presentación de su declaración De tener el derecho a presentar su caso, con permiso de la fiscalia en todo procedimiento legal , incluyendo procedimientos de delincuencia relaciónados a decisiónes posteriores a el arresto, declaraciónes, sentencia, decisiones posteriores de convicción o cualquier procedimiento en el cual se encuentran en balance los derechos de la victima.

- Juicio rápido y conclución del caso inmediato
 A un juicio rápido y conclución final inmediata del caso y cualquier procedimiento posterior relacionado al fallo.
- 10. Proveer información al departamento de libertad condicional De proveer información al departamento de libertad condicional que realiza la investigación previa a sentencia sobre el impacto que el delito tuvo sobre la victima y la familia de la victima y cualquier otras recomendaciones de sentencia antes de sentenciar el acusado.

11. Acusar recibo de reporte pre-sentencia

De recibir ante petición de la victima, el reporte previo a la sentencia al momento que se le sea disponible al acusado, menos aquellas porciónes del reporte que se consideren confidenciales ante la ley.

12. Información sobre convicciones, sentencias, arrestos, libertad o intentos de fugas

De ser informado ante petición de la victima, de la convicción, sentencia, lugar y hora de encarcelamiento, o de cualquier otra disposición del acusado, la fecha prevista de emisión a libertad y el lugar de libertad o intentos de fuga.

13. Restitución

- A. Es la inequivocable intención de la población del estado de California que toda person que sufra perdidas como resultado de actividades criminales, se les ortorge el derecho de buscar y obtener restitución de parte de las personas culpables de haber causado las sufridas perdidas.
- B. Restitución sera ordenada en todo caso por parte del convicto malhechor, irrespectable a la disposición o sentencia impuesta, en la cual la victima sufrió predidas.
- C. Todos pagos monetarios, sueldos, y propiedad colectada de cualquier persona que se le ordeno hacer restitución sera primeramente aplicadas a las sumas ordernadas como restitución a la victima.

14. Entrega inmediata de propiedad

A la entrega inmediata de propiedad cuando ya no se necesita como evidencia.

 Notificatión de procedimientos de libertad condicional y emisión a libertad condicional

De ser informado de todos los procedimientos, de participar con el proceso de libertad condicional, de proveer información que las autoridades consideren antes de conceder libertad condicional al acusado y de ser notificado de la libertad condicional o cualquier otra forma de libertad del acusado.

 Seguridad (bien estar) de victima y el publico en general son factores de consideración para la emisión a libertad condicional del acusado

De tomar en consideración antes de permitir libertad condicional o decisiones posteriores al fallo, la seguridad (bien estar) de la victima, la familia de la victima y el publico en general.

17. Información sobre estos 16 derechos

De ser informado de los derechos enumerados en los párrafos (1) a (16).

Para mas información sobre Marsy's Law visite el website del Procurador General de California al: http://www.ag.ca.gov/victimservices/

Para recibir mas información sobre el Centro de Asistencia para victimas testigos mas cercano, comuníquese con la Oficina del Procurador General de California:

Oficina de Servicios a Victimas 1-877-433-9069

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į	COMBINED USE THIS SECTION IN LIEU OF PROPERTY LOC. EVID. BKD. 10.10.00 GIV											10.00 GIVEN	,	HATRED / PREJUDICE VIOLENCE CARD PROVIDE Preliminary SUPV. / INV. OFCR TESTING SERIAL NO. WITNESS OFCR.								
i	EVID. RPT.							ESTEE, N	O GUN			Y N P										
EXTRA COPY TO:	ITEM	QUA	N. AR	TICLE		s	ERIAL NO	O. / TYPE	TEST DRUG	BRAND/ DR	RUG WEIGHT UNITS	MODEL NO	D. / DRUG RE	/ DRUG TEST MISC. RESULT								
88						-									_							
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	•	SUPERVISOR APPROVING REPORT									SERIAL NO.			REPORT	NG OFF	FICER(S)	SERIAL NO.	ERIAL NO. DIV. & DETAIL VACATION				
		PRC POR										RAP SI ATTAC										
	REPORTING OFFICERS							ED	D	IV. CLER	RK	Y	□ N			(P.P. ARREST OFCR. BKC	G. EVID. IF LI	STED ON THIS	PAGE)			
																INVES	ST. OFCR.			SERIAL NO.	DIV.	
		VENIL					equest:		DETAINED		RELEASED	NON		□ NOI	N-R00F							
	FINAL CHARGE, IF DIFFERENT THAN ORIGINAL (SECTION, CODE & DEFINITION)								RRED, AC	GENCY & PE	RSON ACCEP	TING REFER	RAL	PROPER			SUPE	RVISOR APPR	OVING		SE	ERIAL NO.
									1					IF YES,	10.08.00 ETED?	N	JUV.	COORD. REVIE	WING		SE	ERIAL NO.
	11 C & R 13 EXON-INN								_	CYA PROBATI	ION		JUV. TR			16 DCS OTHER		/TH/= =:	DEDEST			
	11 ACTION SUSP. 12 REL-INSUF. 14 PROVED ADULT 03 COMMUNIT								-	_	W ENF. AGENO	1 -	_	MENTAL HEA	ALTH	□ omer	DATE	/ TIME DISPO	KEPROD.		DIV	./CLERK
																		<u> </u>				